

week enforcement provisions that dramatically limits the ability of consumers to seek recourse for inadequate care, injury, or death. Furthermore, it forces patients to pursue remedies in an external appeals process that is neither independent or fair.

I would urge my colleagues to vote against all of the amendments. If any of the amendments are adopted, I would then urge a "no" vote on final passage. I hope that we can work together in the future to enact a true bipartisan patient protection bill.

Mr. TOWNS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Georgia. I strongly support the Ganske-Dingell-Berry Bipartisan Patient Protection Act without the Norwood-Bush "COMPROMISE" or any other poison pill amendments.

For the past five years, we have been fighting for true patient protection legislation only to be thwarted at every turn by a lethal combination of parliamentary maneuvers and political posturing. The Norwood-Bush Compromise is just another maneuver designed to water down real patient protection legislation.

Mr. Chairman, it is time that we return medical decisions to the people qualified to make them. It is time that we stop limiting the drugs available to patients based on an accountants' formula. It is time that we return to the American people the right to choose their own healthcare providers. The Ganske-Dingell-Berry Bipartisan Patient Protection Act stops protecting the HMO's and provides true patient protection. I support protecting patients while the amendments before us today will give all of the rights to HMO's at the expense of patients. The only thing that the Norwood-Bush "Compromise" compromises is a patient's access to quality care. I support the Ganske-Dingell-Berry Bipartisan Patient Protection Act because I believe that it offers patients the protection they need. Access and accountability must be the cornerstones of any true patient protection plan and Ganske-Dingell-Berry will ensure that accountability.

Don't fall for cheap imitations; the Ganske-Dingell-Berry Bipartisan Patient Protection Act is strong, enforceable patient protection legislation.

The American people are crying out for patient protection. We cannot continue to have a healthcare system that claims to offer the best healthcare in the world and yet allows business decision makers the right to limit access to top quality care. I urge my colleagues to provide true patient protection and vote for the Ganske-Dingell-Berry Bipartisan Patient Protection Act without amendments.

Mr. PASCRELL. Mr. Chairman, I stand before you to remind everyone here why we must pass the patients Bill of Rights today. It is because we must protect all Americans from the fate that befell Mr. Robert Frank Leone of Glen Ridge, N.J.—a constituent of mine.

Every year, Mr. Leone was denied a chest x-ray by his HMO despite his request. When he eventually displayed symptoms of illness, his Doctor acquiesced and his cancer was diagnosed.

Mr. Leone had non-small cell lung cancer that spread to his brain. His wife Victoria was told that he had only 2 months to live.

After successful treatment with radiation, Mr. Leone and his wife had to beg his doctors for a referral for physical therapy.

As a result of physical therapy, Mr. Leone regained much of his strength and quality of life.

But his HMO cut his physical therapy sessions as soon as he started to feel better. They said it was no longer necessary. They said it was "preventative."

As a result of losing his physical therapy, Mr. Leone's health began fading. Soon he could no longer walk without assistance.

Despite pleas from his wife, his HMO refused to restore Mr. Leone's physical therapy benefit. Instead, they suggested he join a health club. And that his wife Victoria should become his physical therapist! But Victoria is legally disabled!

Mr. Leone became depressed and was hospitalized and died in the hospital March 30, 1999.

I call him an HMO casualty.

If his doctor had given him a chest x-ray when he requested it, instead of denying the benefit to save money—his cancer would have been diagnosed before it had spread to his brain.

If the HMO had not limited Mr. Leone's access to physical therapy, he would have continued his improvement and would probably have not sunk into depression.

If an appeals process had been in effect, Mr. Leone and his wife could have appealed both of these denials of care.

Simply put, Mr. Leone died because the HMO was not liable for its actions. And because the HMO was not liable they could deny him care to save money and not be held accountable.

Today on the floor we are voting on H.R. 2563 to protect patients just like Mr. Leone.

But then there is this Norwood amendment.

Well, you don't have to be Columbo to recognize that the Norwood amendment is here to take the teeth out of this crucial legislation.

The Norwood amendment creates several roadblocks that would prevent patients from receiving benefits that already exist.

Additionally, the Norwood amendment supercedes state laws and forces state courts to apply federal tort law.

In fact, this amendment creates a federal cause of action for negligence where none existed before!

I am particularly interested in safeguarding strong state laws that protect patients because my state of New Jersey just recently instituted a strong patients' bill of rights that would be preempted by the Norwood amendment!

New Jersey's new patients' rights' law is much broader in scope than even the Ganske bill we are discussing here today. It covers traditional HMOs, as well as health insurance plans that are not covered by ERISA.

How can I go home and tell my constituents that the strong patients' bill of rights recently made into law in New Jersey will never have the opportunity to benefit our residents?

And that is not the only problem presented in this amendment.

The Norwood amendment creates a presumption in favor of the HMO that the patient must overcome in order to win in court.

This flies in the face of due process, a premise upon which our country is founded. It offends me to the core that this amendment not only restricts access to state law by patients but then adds an additional hurdle to their burden of proof once in court.

If the Norwood amendment had been law when Mrs. Leone was taking care of her hus-

band, these additional obstacles would have made this heartbreaking experience even more painful. She would have had no access to her own state's laws, no fair due process, and a limited amount of damages to seek.

I shake my head whenever I think of how we could have saved Mr. Leone's life if we had only passed the Ganske bill 5 years ago.

Let's not let any more Americans die at the hands of corporations whose sole concern is the bottom line not the patients' health.

I urge all of you in joining me to vote in favor of H.R. 2563 and against the Norwood amendment. Do it for Mr. Leone and all for the future patients who we could save with this important vote.

Mr. BALDACCI. Mr. Chairman, I have long supported the efforts of Mr. NORWOOD to reform managed care. Unfortunately, I cannot support my friend's latest legislative effort on this issue. Instead, I remain strongly in favor of the Ganske-Dingell-Berry bill, H.R. 2563. This is the only Patients' Bill of Rights legislation we are considering today with sufficient enforcement provisions. Without strong accountability, the landmark patient protections we agree are necessary will be rendered meaningless.

The Norwood amendment, based on his agreement with President Bush, is an empty shell, tipping the balance back to the insurance companies and away from patients. This Norwood plan is significantly weaker than the bill passed by the Senate.

Congressman NORWOOD's amendment places unacceptable limits on a patient's ability to hold his or her plan accountable. Self-funded plans may only be sued in federal courts. This provision limits access to state courts for many Americans covered under employer-sponsored health insurance plans. Even when a patient can seek a resolution through state court, they can only do so under federal rules, which are more restrictive for plaintiffs.

Patients have a larger burden to bear under the Norwood language. They can sue if an independent reviewer decides against them, but the legal presumption would be that the external review was correct. Under this scheme, the burden of proof is placed on the patient, who must meet a higher legal standard of proof than when he or she appealed to the review panel.

The liability provisions of this amendment are so complex and convoluted that they will only serve to dissuade patients from seeking resolution to their grievances.

Under the Norwood amendment, doctors will continue to be held to tougher state malpractice standards than HMOs. Managed care plans will still play by different rules than the physicians whose decisions these companies overrule. This is not acceptable.

Americans deserve better than this shallow version of patients' rights legislation. I urge my colleagues to soundly reject the Norwood Amendment and to support the Ganske legislation.

MR. EVANS. Mr. Chairman, today we have the opportunity to pass a strong, enforceable Patients' Bill of Rights. A bill that would return medical decisions to patients and their doctors. A bill that would strip HMOs of their unprecedented protections which allow them to make decisions about patients' care while being held accountable to no one. A bill that puts quality health care above the bottom line of insurance companies.